Alternative Dispute Resolution Plan
United States District Court
For the District of Utah

SECTION 1: GENERAL ADMINISTRATIVE PROVISIONS

(a) **Opting Out of the ADR Program; Written Notice.** By written notice filed with the clerk of court and served upon all parties pursuant to Fed. R. Civ. P. 5 no later than twenty (20) days following entry of an order of referral, any party to a civil action which has been referred to the ADR Program may opt out of participation in the program.

(1) Where all plaintiffs or all defendants opt out of participation in the program, the case will be withdrawn from the program.

(2) Where, twenty (20) days following the entry of an order of referral, there remain at least one plaintiff and one defendant who have elected to remain in the ADR program, the case will proceed in the program as to those participating parties.

(b) **Withdrawal of Referral by the Court.** On its own motion, or for good cause shown upon motion by a party, the court may order that a civil action that has been referred to the court's ADR program be withdrawn from that program.

(c) **Withdrawal of Action from ADR Program.** On withdrawal of an action from the ADR program, the formal stay of discovery will be lifted and the case will continue on the pretrial schedule previously set by the district or magistrate judge. Where no pretrial scheduling order has been set, the court or magistrate judge will enter an appropriate scheduling order pursuant to DUCivR 16-1(a)(1).

(d) **Settlement of a Case Referred to ADR Program.** If the parties independently settle a civil action that has been referred to the court's ADR program, the parties or their counsel must promptly (i) advise the clerk of court ~~ADR roster member(s) assigned to that case of the settlement~~, and (ii) file with the clerk of court a stipulation and proposed order for dismissal of the civil action.

(e) **Orientation.** Except as excluded by DUCivR 16-2, any party to a civil action pending before this court or any attorney may make arrangements with the clerk of the court to participate in a brief ADR orientation.

SECTION 2: COURT-APPOINTED ADR ROSTER

The court will establish and maintain an ADR roster. ADR roster members will be appointed by the court from applications submitted by or on behalf of persons who are qualified, as set forth below, and willing to serve on the ADR roster. Each roster member will be designated for service as a court-appointed arbitrator or court-appointed mediator; some members, based on their training and experience, may be designated as both. The court may vary the size of the roster according to its discretion and the number of cases that are referred to the ADR program to ensure that roster members are provided sufficient opportunity to maintain their skills. Members of the bar of this court and parties to a civil action subject to DUCivR 16-2(c) may review the roster upon request.

(a) **Qualifications and Appointment.** To be eligible for appointment to the ADR roster, an attorney must (i) have been admitted to law practice not fewer than ten (10) years; (ii) be an active member in good standing of the bar of this court; and (iii) either have completed or agree to complete a court-approved ADR training program or demonstrate equivalent training or ability through relevant experience in professional practice.

(b) **ADR Members Pro Tem.** On the request of the participating parties, or on its own motion, the court may appoint persons having specialized knowledge, skill, education, training, or experience in relevant subject matter, who need not be admitted to the practice of law or members of the bar of this court, to serve as ADR members pro tem for the civil action in which their participation is requested. Each member pro tem's appointment expires upon the completion of ADR proceedings in the civil action for purposes of which the member pro tem was appointed. ADR members pro tem are subject to the same rules and guidelines that govern ADR roster members.

(c) **ADR Member Disclosure Requirements.** When appointed by the court to serve as an arbitrator or mediator in a particular case, ADR roster members and members pro tem should carefully review the complaint and answer provided by the clerk to determine whether they have any conflict of interest as set forth in Canon III of the court's ADR Code of Ethics. Where any member determines that such a conflict exists, the member should withdraw from participation in the case. Where a ~~panel~~ members determines that no such conflict exists, but that the member has an interest or relationship that may be

perceived as a conflict, the member must promptly disclose to the parties the nature of that interest or relationship. This duty of prompt disclosure is ongoing during the ADR proceedings.

(d) **ADR Member Oath.** Each ADR roster member and member pro tem appointed to a case referred to the ADR Program must execute, upon acceptance of such case, the following oath:

"I, _____, do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as a court-appointed (arbitrator or mediator) under the Constitution and laws of the United States."

(e) **Disqualification of ADR Member.**

(1) Applicable Statute and ADR Code of Ethics. No ADR roster member or member pro tem may render services in the ADR Program or participate in any court-annexed ADR proceedings with respect to a civil action under any circumstances that would justify judicial disqualification pursuant to 28 U.S.C. § 455(b) or which would justify disqualification under the court's ADR Code of Ethics.

(2) Inquiry by the Clerk of Court. The clerk will make appropriate inquiry concerning the existence of any circumstances which may warrant the disqualification of any roster member or member pro tem pursuant to Section 2(e)(1) of this plan.

(f) **Withdrawal of ADR Member from a Case or Proceeding.** Where a roster member or member pro tem thus selected is subject to disqualification pursuant to Section 2(e) of this plan or requests to withdraw for good reason from participation in the particular case to which that member was appointed by the court, the clerk of court will select another available ADR roster member to participate in that case, giving deference to the expressed preferences of the parties, if any, as provided in Section 4(b)(3) of this plan.

(g) **Withdrawal from ADR Roster.** Any ADR roster member may request at any time to be removed from the court's ADR roster on either a temporary or permanent basis.

(h) **Compensation of ADR Members.** ADR roster members and members pro tem ~~may be paid by the court for their services in the ADR program at a standard rate per case. The~~

~~standard rate(s) of compensation for services rendered in the ADR program will be fixed subject to the limits set by the Judicial Conference of the United States. Unless otherwise ordered by the court, compensation will be paid upon the member's completion of participation in ADR proceedings in each case. A member entitled to compensation should submit a voucher using a form provided by the clerk.~~ will be compensated by the parties at an hourly rate set by the court. Court-appointed arbitrators will be compensated for reasonable preparation time and for time spent conducting an arbitration conference or hearing. Court-appointed mediators will be compensated for time spent conducting a mediation conference unless ordered otherwise by the court. Where compensation is warranted in preparation for complex or otherwise demanding mediation sessions, mediators should notify clerk of court and the parties of the anticipated costs in writing in advance of the session either in a fee agreement or the Agreement to Mediate. Compensation fees will be divided evenly between the parties unless otherwise negotiated or ordered by the court. ADR members must not accept any compensation, gift, or other service or item of value not specifically authorized by this subsection from any party, party's attorney, or other person involved in disputes whose resolution they have been assigned to supervise~~d~~.

a. Indigent Parties. Any party unable to pay its portion of the fee may file a motion with the court for relief. The motion shall be filed prior to the ADR conference and be accompanied by an affidavit of financial standing. If the court grants the motion, the other parties remain responsible for their portion of the fee. If the court waives the compensation fee for all parties in the case, the ADR member shall serve pro bono.

b. Payment. All terms and conditions of payment must be clearly communicated by the ADR member in writing, either via a fee agreement or in the Agreement to Mediate, to the parties. The parties shall pay their ADR member directly.

(i) **Reimbursement of Expenses.** Upon completion of the ADR proceedings, an ADR roster member or member pro tem may obtain reimbursement for out-of-pocket expenses authorized under applicable federal regulations. A member seeking reimbursement should submit a voucher for those expenses using a form prescribed by the clerk.

(J) **Immunity.** All ADR roster and pro tem members who serve in the court's ADR Program perform quasi-judicial functions. When acting in their capacity as court-appointed neutrals, the immunities and protections that the law accords to persons serving in such capacity extend to them.

SECTION 3: CONFIDENTIALITY

(a) **Confidentiality in ADR Proceedings.** The court intends through implementation of this ADR program that ADR proceedings offer an alternative to the formal litigation process. To that extent, ADR proceedings must be conducted in a manner that encourages an informal and confidential exchange among counsel, the parties, and the ADR roster member(s) to facilitate resolution of disputes. ADR proceedings will be conducted in private, similar to confidential settlement conferences, whose general purposes they share, as set forth in DUCivR 16-3. Where counsel jointly move that the proceedings for a particular case be opened, the supervising ADR roster member must direct that they be opened.

(b) **Confidentiality in ADR Communications.** Motions, memoranda, exhibits, affidavits, and other oral or written communication submitted by counsel or the parties to the ADR panel member(s) pursuant to the requirements of this plan and at the direction, if any, of the ADR panel member(s), must not be made a part of the record or filed with the clerk of court. Such communication must not be transmitted to the district or magistrate judge to whom the case is assigned except as required elsewhere in this plan. The clerk will file and include in the court's record only the order referring a case to ADR and other ADR scheduling and proceeding notices.

(c) **ADR Member Confidentiality.** Members of the court's ADR roster and members pro tem must preserve and maintain the confidentiality of all ADR proceedings in which they officiate. They must not disclose to or discuss with anyone, including the designated judge, any information related to the proceedings unless specifically required elsewhere in this plan. ADR members must secure and ensure the confidentiality of ADR proceeding records; at the conclusion of the proceedings, the ADR member shall either

return all materials submitted by the parties to the respective parties or ~~and must return them to the submitting parties or~~ destroy them~~, as appropriate, at the conclusion of the proceeding~~. ADR roster members designated to serve as mediators must keep confidential from other parties any information obtained in individual caucuses ~~unless~~ that the party to the caucus ~~specifically authorizes disclosure~~ expressly identifies as confidential.

SECTION 4: SELECTION OF ADR MEMBERS

(a) **Stipulation by the Parties.** The participating parties may select by stipulation ADR roster members for the purpose of conducting alternative dispute resolution proceedings in their ~~at~~ action. The parties must notify the clerk of such stipulation within fifteen (15) days of referral of the action into the ADR program. Pursuant to Section 2(b) of this plan, any party may request in writing the appointment of one member pro tem, unless, in an action referred to arbitration, the parties have agreed to use a panel of three (3) arbitrators instead of one (1). In such actions, the parties may request in writing the appointment of up to two (2) members pro tem. Such requests must be served on all other parties. Where all other parties to the matter stipulate to the appointment of the member(s) pro tem, the clerk will forward such requests for appointment of ADR member(s) pro tem to the assigned judge for review and approval.

(b) **Selection by Clerk.** The clerk of court or his designee will appoint an ADR roster member to serve as the neutral if the parties fail to jointly select an ADR roster or member pro tem to serve as the neutral and notify the clerk of their choice within fifteen (15) days of the referral to the ADR program.

~~**Alternative Selection Procedure.**~~

~~(1) Where the parties are unable to agree upon the selection of the ADR roster member(s) or member(s) pro tem for a particular case, the clerk will prepare a list of twelve (12) available roster members, including the names of members pro tem, if any, requested by the parties, and mail the list to each participating party.~~

~~(2) Within ten (10) days from the date of mailing, each party must return the list to the clerk of the court marked as follows:~~

~~(A) each party may strike two (2) names from that party's copy of the list up to a maximum of four (4) per side;~~

~~(B) each party must mark the remaining names on the list in numerical order of preference; and~~

~~(C) each party must separately mark the name(s) of any roster member(s) or member(s) pro tem who the party knows or believes in good faith may be subject to disqualification pursuant to Section 2(e) of this plan.~~

~~(3) Upon receipt of the list(s) returned by the parties, the clerk will select ADR roster member(s) or member(s) pro tem for the case consistent with the stated preferences of the parties and, where required, the approval of the court. Alternatively, if the parties (i) do not return their lists within ten (10) days or, (ii) express no preferences, the clerk will make the selection from the ADR roster consistent with the clerk's discretion. When selection is completed, the clerk will mail to each participating party a notice listing the roster member(s) or member(s) pro tem thus selected.~~

SECTION 5: ARBITRATION PROCEEDINGS

A civil action in which, by stipulation or order, arbitration has been designated, will proceed as follows:

(a) **Selection of Panel or Arbitrator.** One (1) ADR member, or member pro tem as authorized by the court, will be selected to conduct the proceeding, unless the participating parties stipulate that the proceeding be conducted by three (3) arbitrators.[1] The ADR roster member(s) or member(s) pro tem must be selected as provided in Section 4 of this plan. If a panel of three (3) arbitrators is selected, the members of a panel will designate a chair who must be a member of the court's ADR roster. Members pro tem may not serve as arbitration panel chairs.

(b) **Majority Rule.** If a panel of three (3) arbitrators is selected, the concurrence of a majority of the panel is required for any decision, ruling, order, or award by the panel.

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[1] In cases in which the parties have stipulated that the proceedings be conducted by three (3) arbitrators, references in this rule to the "arbitrator" should be read as referring to the "arbitration panel."

(c) Pre-hearing Conference.

(1) Scheduling, Purposes, and Participants. Within thirty (30) days after selection of the arbitrator and upon ten (10) days' notice mailed by the clerk to all participating parties, the arbitrator will conduct a pre-hearing conference for the purposes of (i) reviewing the case, (ii) assisting the parties in defining and narrowing the issues, (iii) determining the scope and timing of any discovery, (iv) scheduling the arbitration hearing, and (v) executing an arbitration agreement. All parties or their counsel must attend this conference. The arbitration hearing must be held within one-hundred-twenty (120) days of the date of the pre-hearing conference.

(2) Written and Oral Testimony. Where appropriate in the course of the pre-hearing conference, the arbitrator will (i) encourage the use of stipulations, affidavits, proffers of testimony, written submission of expert opinions, and other time-saving evidentiary tools and procedures, and (ii) instruct the parties to limit live testimony, if any, to the resolution of factual disputes and witness credibility issues. The arbitrator also will instruct the parties that, unless otherwise authorized by the arbitrator or agreed upon by the parties, issues other than those defined in the pre-hearing conference should not be raised at the arbitration hearing and will not be considered in determining any arbitration award.

(3) Location. Unless otherwise agreed by the participating parties and approved by the arbitrator, the arbitration hearing should be held at the Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, Utah.

(4) Arbitration Agreement. During the pre-hearing conference, the parties will execute an arbitration agreement that should conform to this plan and the approved form of arbitration agreement which is available from the clerk of court. Following its execution, the arbitrator or panel chair will notify the clerk of court of the scheduled hearing date. The clerk will mail a hearing notice to each participating party. Under subsection Section 5(p) of this plan, the parties may provide in the final arbitration agreement that the arbitration award be final and binding.

(5) Additional Pre-Hearing Conferences. The arbitrator may schedule additional pre-

hearing conferences to facilitate preparation of the arbitration agreement.

(d) **Interim Procedural Orders; Rescheduling.** The arbitrator has the authority to make such interim procedural orders in furtherance of the purposes of the arbitration proceeding and this plan as are deemed necessary and appropriate (*e.g.*, requiring exchange of witness and exhibit lists, designation of experts, etc.). Upon motion by any party or the arbitrator's own motion, the arbitrator may reschedule the arbitration hearing, provided the hearing is commenced within thirty (30) days of the original date set at the pre-hearing conference. Except as to matters of pre-hearing scheduling, or continuance of the arbitration hearing, no party or counsel for a party may have ex parte contact or communication concerning the case with any ADR roster member(s).

(e) **Exhibits; Objections; Waiver.** Not fewer than twenty (20) days before the arbitration hearing, a party that intends to offer documentary evidence at the arbitration hearing must serve copies of the exhibits, together with written notice of that party's intention to offer the same, on all participating parties. Not fewer than seven (7) days before the arbitration hearing, each party may serve on the offering party written objection(s) to one or more of the exhibits, specifying the exhibit and the specific ground(s) of objection. Any objections to any exhibit served in accordance with this section based upon any issue of evidentiary foundation, authentication, or hearsay not served as provided in this plan will be deemed to be waived. Each party must mark all original exhibits and copies prior to the arbitration hearing under DUCivR 83-5.

(f) **Subpoenas.** The presence of witnesses and production of documentary or other evidence at the arbitration hearing may be compelled by subpoena under Fed. R. Civ. P. 45.

(g) **Transcript or Recording.** Any participating party, at that party's own expense and on five (5) days' notice to the arbitrator and participating parties, may make arrangements for stenographic or other recording of the arbitration hearing and a transcript of the proceedings, provided that a copy of the transcript or recording is supplied to the arbitrator at no charge. Video recording will not be permitted. Copies of the transcript or recording must be made available to all participating parties on request and at a reasonable expense.

(h) **Arbitration Hearing.** The arbitration hearing will be commenced at the place, date, and

time designated by the arbitrator and will be conducted by the arbitrator. If a panel of three (3) arbitrators is selected, the chair will preside. Each participating party and its counsel should attend the arbitration hearing. The arbitration hearing may proceed in the absence of any party who, after written notice of the scheduling of the hearing, does not appear. At the request of any participating party or the arbitrator, non-party witnesses, except when testifying, will be excluded from the arbitration hearing under Fed. R. Evid. 615. The arbitrator will determine the mode and order of presentation of issues, argument, the testimony of witnesses, and other evidence, limiting the amount of time to which each party is entitled. Except as otherwise set forth in the arbitration agreement, the burden of proof among the parties will be allocated, and presumptions, if any, will apply as if at trial before the court.

(i) **Issues to be Decided.** Absent a stipulation by all parties, the arbitrator will make no determination regarding issues not covered in the arbitration agreement. Where the arbitrator determines that such other issues must be determined in order to render an award, the arbitrator will seek the parties' agreement to do so.

(j) **Evidence; Admissibility; Rules of Evidence.** All oral testimony at the arbitration hearing must be taken under oath or affirmation under Fed. R. Evid. 603 and will be subject to Fed. R. Evid. 501 concerning privileges. The arbitrator will determine the admissibility of evidence offered at the arbitration hearing. The arbitration hearing should be conducted in conformity with the Federal Rules of Evidence, but the arbitrator may receive evidence otherwise inadmissible under those rules if (i) the arbitrator finds the evidence to be relevant and trustworthy; and (ii) the receipt of that evidence is not unfairly prejudicial to any party against whom it is offered. The arbitrator may take judicial notice of adjudicative facts consistent with Fed. R. Evid. 201.

(k) **Arbitration Award.** The arbitrator will prepare and file with the clerk any award in an arbitration proceeding conducted pursuant to this plan within twenty (20) days of the conclusion of the arbitration hearing. The clerk will mail a copy of the award to all participating parties or their counsel and retain the original under court seal for thirty (30) days. At the conclusion of the thirty (30) days, the clerk will unseal the award and enter judgment under Section 5(m) of this plan. If, prior to expiration of the thirty (30) days,

any party to the action files a demand for trial de novo under Section 5(n) of this plan, the clerk will dispose of the original award.

(l) **Form of the Award.** The award must be in writing, signed by the arbitrator, and must state with particularity (i) the name(s) of the prevailing party or parties and the party or parties against whom the award is rendered, and (ii) the precise amount(s) of the award. With respect to monetary relief, the arbitrator may, but is not required to, make findings of fact or otherwise explain the basis of the award. Where equitable or other non-monetary relief is sought, the award must state with particularity the nature and extent of such relief, if any, found to be an appropriate remedy and the factual and legal ground(s) for such relief.

(m) **Entry of Judgment on Award.** Unless a party has filed a demand for trial de novo under Section 5(n) of this plan within thirty (30) days after the filing of the award, the clerk of court will enter judgment on the award in the amount(s) specified in it under Fed. R. Civ. P. 58. If no timely demand for trial de novo has been made with respect to an award granting or denying equitable or other non-monetary relief, the court will enter an order approving the award, and the clerk will enter judgment accordingly.

(n) **Trial De Novo; Written Demand.** Any participating party may file and serve a written demand for trial de novo within thirty (30) days after the filing of the arbitration award. Where timely demand has been made, the clerk will vacate the award and the case will be withdrawn from the ADR Program.

(o) **Admissibility in Other Proceedings.** No transcript, recording or other record of the arbitration hearing, final arbitration agreement, or award or recommendation filed in a proceeding governed by this plan, will be admissible as evidence for any purpose in a trial de novo or other adjudicative proceeding, unless (i) the evidence is independently admissible under the Federal Rules Evidence, or (ii) the parties otherwise stipulate.

(p) **Binding Arbitration Available.** At any time prior to the issuance of the arbitration award, the parties may agree, by written stipulation, that the award will be final and binding.

SECTION 6: MEDIATION PROCEEDINGS

A civil action in which, by stipulation or order, mediation has been designated as the method of alternative dispute resolution to be employed, will proceed as follows:

(a) **Selection of Mediator.** The participating parties may (i) select by stipulation a mediator from the roster maintained by the clerk of court, or (ii) request the appointment of a member pro tem as provided in Section 2(b) of this plan. In the event that the parties cannot agree, the mediator will be selected as provided in Section 4(b) of this plan.

(b) **Scheduling the Mediation Conference.** Within twenty (20) days following selection and after consultation with the participating parties or their counsel, the mediator will schedule the place, date, and time of the mediation conference, notice of which will be sent by the clerk of court to all participating parties. Unless otherwise agreed by the participating parties and approved by the mediator, the mediation conference will be held at the Frank E. Moss United States Courthouse, 350 South Main Street, Salt Lake City, Utah. The mediator may reschedule the mediation conference at the request of one or more parties or on the mediator's own motion, provided the conference will commence within thirty (30) days of the original scheduled date.

(c) **Pre-conference Memoranda; Agenda.** Unless the parties otherwise agree, each participating party will provide to the mediator a concise memorandum describing that party's position concerning the issue(s) to be resolved through the mediation. This memorandum must be provided at least ten (10) days before the scheduled date of the mediation conference. The mediator may direct that the memoranda be exchanged between participating parties. The mediator may prepare and circulate an agenda for the mediation conference.

(d) **Mediation Conference.** The mediation conference will commence at the place, date, and time set forth in the notice. All participating parties and their counsel must be present and prepared to discuss all relevant issues in the case. The mediator will conduct the mediation conference, determine the length and timing of sessions and recesses, specify the order and manner in which issues and parties' positions are to be addressed, etc. The mediation conference should proceed in a fashion that promotes the goals of the mediation process, preserves confidentiality, and encourages candor. The mediator should serve as a neutral facilitator, assisting the parties in defining and narrowing the

issues, and encouraging each party to examine the dispute from various perspectives, without undertaking to decide any issue, make findings of fact, or impose any agreement.

(e) **Separate Consultation with Parties During the Conference.** During the conference, the mediator may meet or consult separately with one or more participating parties, or may divide the conference into groups of fewer than all parties. Information disclosed to the mediator on a confidential basis during separate consultation must not be disclosed to other parties without the consulting party's consent.

(f) **Absent Parties.** On written recommendation by the mediator, or motion by a participating party, the court may order absent parties to show cause why they failed to attend the mediation conference and, if appropriate, why sanctions should not be imposed.

(g) **Termination of the Mediation Conference.** If the mediator determines that the conference is making no substantive progress towards settlement, the mediator may adjourn the mediation conference and report that adjournment in writing to the clerk of court. By stipulation of at least two adverse participating parties, the mediator may schedule and conduct a second conference. Absent unusual circumstances, such second conferences should be conducted within thirty (30) days of the original mediation conference. If no such stipulation is made, or if no substantive progress is being made at the second conference, the mediator will terminate the mediation conference and report that termination in writing to the clerk of court. Upon receipt of such report, the case will be withdrawn from the ADR program.

(h) **Settlement.** In the event that a settlement as to all issues is reached during the mediation conference, the participating parties should prepare and execute a written settlement agreement and promptly file with the clerk of court a stipulation and order for dismissal of the civil action. In the event that a resolution of fewer than all the issues is reached, the parties should prepare and execute a stipulation concerning those issues which were resolved and identifying those issues which remain in dispute. On filing of the stipulation with the clerk, the case will be withdrawn from the ADR program.

(i) **Confidentiality; Non-admissibility of Proceedings.**

(1) Disclosure Constraints. All proceedings in any mediation conference conducted under this plan, including any ~~statement~~ communication made by any party, attorney, ~~or~~ representative, or any other person attending the mediation, are conclusively deemed to be made in compromised negotiations within the meaning of Fed. R. Evid. 408. ~~Such proceedings (i) must not be construed as an admission or be admissible as evidence for any purpose in any other proceeding, unless the evidence is independently admissible under the Federal Rules of Evidence or the parties otherwise stipulate and, (ii)~~ In addition, absent exception under paragraph (2) below, such communications shall not be:

(A) disclosed to anyone not involved in the litigation;

(B) disclosed to the assigned district or magistrate judge, or

(C) used for any purpose, including impeachment, in any pending or future proceedings in this Court.

(2) Limited Exceptions to Confidentiality. This subsection does not prohibit:

(A) disclosures as may be stipulated by all parties and the mediator;

(B) disclosures from mediation proceedings that were open to the public based on stipulation of all parties;

(C) a report to or an inquiry by the ADR judge or the clerk of court pursuant to DUCivR 16-2(j) regarding a possible violation of this rule or the court's ADR Plan;

(D) any participant or the mediator from responding to an appropriate request for information duly made by persons authorized by the court to monitor or evaluate the court's ADR program;

(E) sharing of mediation experience by mediators for training or education purposes, provided the identity of the persons and parties involved in the mediation remain confidential; or

(F) disclosures otherwise required by law

(3) Prohibition on Reproduction or Dissemination of Proceedings. Mediation conferences may not be recorded, transcribed, or published in paper, electronic, digital, audio, or video format without the prior written consent of the parties and

the mediator. ~~Video recordings of proceedings may not be made.~~

(j) **Attendance at Mediation Conference Required**: Counsel and all parties are required to attend the mediation conference(s) in person unless otherwise excused by the mediator upon showing of good cause.

(1) Corporation or Other Entity. If a party is not a natural person, a duly authorized representative or agent of the entity, in addition to outside counsel, must attend the mediation conference(s) unless excused by the mediator under paragraph (4) below. The representative must have settlement authority and knowledge about the facts of the case.

(2) Government Entity. If a party is a unit or agency of government, a duly authorized representative or agent of the entity must attend the mediation conference(s) unless excused by the mediator under paragraph (4) below. The government representative must have, to the greatest extend feasible, (i) authority to settle and knowledge about the facts of the case, (ii) the government entity's position, and (iii) the procedures and policies under which the governmental unit determines whether to accept proposed settlements. If the action is brought by the government on behalf of one or more individuals, at least one such individual also must attend.

(3) Insurers. If an insurance carrier is directly or indirectly involved in the outcome of the case, a duly authorized representative of the carrier with knowledge about the facts of the case and settlement authority must attend the mediation conference(s) unless excused by the mediator under paragraph (4) below.

(4) Request to be Excused. A party, representative, attorney, or insurance carrier may be excused by the mediator from attending the mediation conference(s) only after a showing that personal attendance would impose an extraordinary and unnecessary hardship. A person excused from appearing in person at a mediation conference must be available to participate by telephone and must notify in writing, at least forty-eight (48) hours in advance of the mediation conference, all parties in the case and the clerk of court about the appearance by telephone.